FORTUNE

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HOW LAWLESS ARE BIG COMPANIES?

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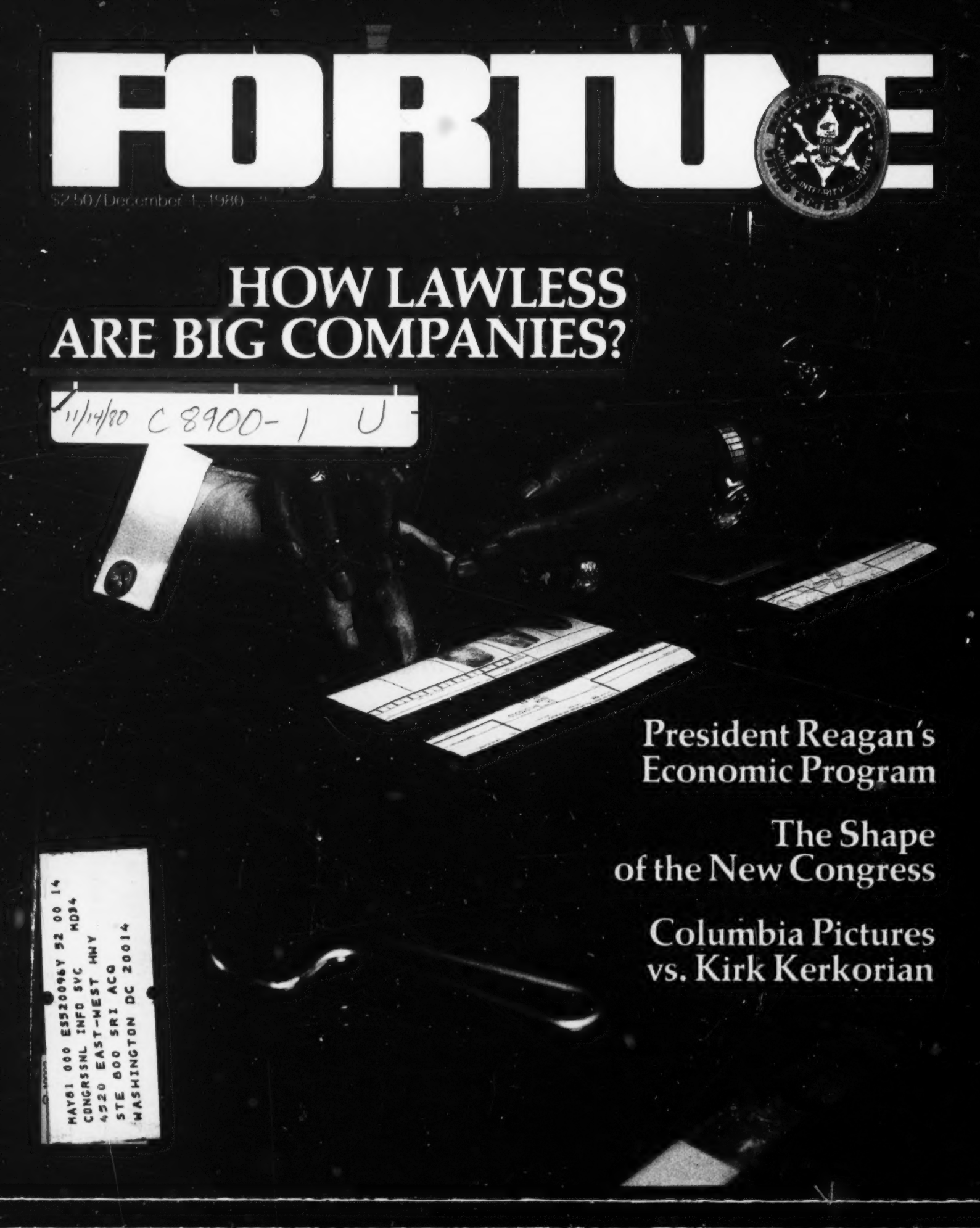

President Reagan's Economic Program

The Shape of the New Congress

Columbia Pictures vs. Kirk Kerkorian

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To take the cover photograph, Patrick D. Pagnano went to the U.S. Courthouse in Manhattan, where a deputy U.S. marshal demonstrated the art of fingerprinting. A story on the surprisingly large number of big companies that have committed serious crimes begins on page 56.

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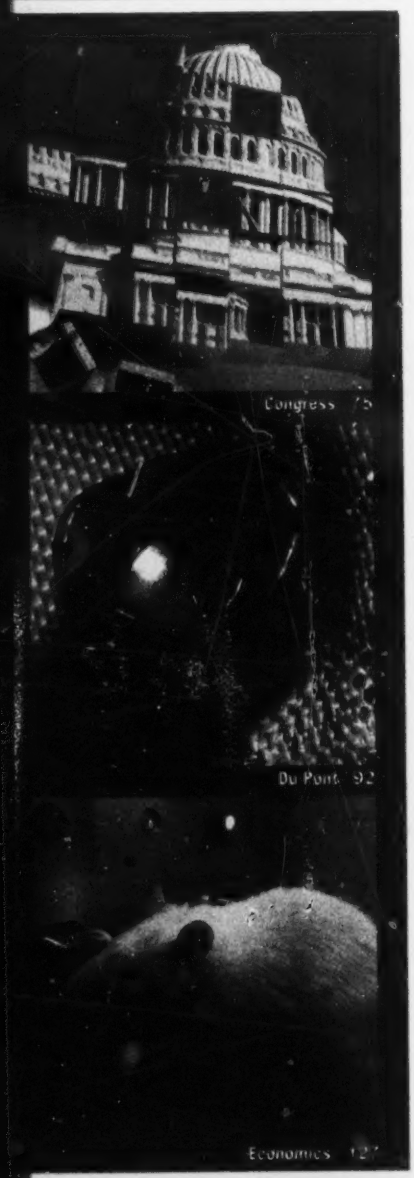

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How Lawless Are

FORTUNE
December 1, 1980

Big Companies?

by IRWIN ROSS

A look at the record since 1970 shows that a surprising number of them have been involved in blatant illegalities.

Crime in the executive suites has come to command media attention of a sort formerly reserved for ax murders. An abundance of anecdotal evidence about corrupt practices—commercial bribery, price-rigging schemes, fraud against customers—has led critics of business to charge that far more crime exists than has come to light. Defenders of business, on the other hand, argue that the well-publicized episodes are aberrations, totally untypical of the way corporate America operates.

The big cases are often shockers. Bethlehem Steel, for example, was recently fined $325,000 in connection with an elaborate kickback scheme that involved the laundering in Europe of hundreds of thousands of dollars in phony commissions and the return of the cash by courier for distribution as bribes. Such sleazy goings-on by a company as prestigious as Bethlehem indicate that big-business crime hasn't been swept away in a tide of post-Watergate morality. But no single case tells much about the extent of corporate delinquency in America. Hence the compilation by FORTUNE on the accompanying three pages of significant corporate offenders and offenses since 1970.

The guidelines

There is, of course, no standard definition of corporate corruption. Our list is limited to five crimes about whose impropriety few will argue—bribery (including kickbacks and illegal rebates); criminal fraud; illegal political contributions; tax evasion; and criminal antitrust violations. The latter consist entirely of price-fixing and bid-rigging conspiracies and exclude the vaguer and more contentious area of monopolistic practices, which are the subject of civil antitrust suits. Also excluded are Federal Trade Commission complaints that have to do with the ways companies "signal" price changes to competitors.

Research associate: Philip Mattera

Of the 1,043 major corporations in the study, 117, or 11%, have been involved in at least one major delinquency in the period covered (see pages 58 to 61). Some companies have been multiple offenders. In all, 188 citations are listed covering 163 separate offenses—98 antitrust violations; 28 cases of kickbacks, bribery, or illegal rebates; 21 instances of illegal political contributions; 11 cases of fraud; and five cases of tax evasion. This roll call of wrongdoing is limited to domestic cases; the list would have been longer had it included foreign bribes and kickbacks.

All the cases resulted either in conviction on federal criminal charges or in consent decrees (or similar administrative settlements), in which companies typically neither affirm nor deny past delinquencies but agree not to commit them in the future. Many of the defendants were convicted on pleas of nolo contendere (no contest)—tantamount to guilty pleas but often preferred by defendants for both psychological and practical reasons. To unsophisticated ears, a nolo plea does not have the ring of a confession of guilt. A practical benefit in an antitrust case is that the nolo plea cannot be used as automatic evidence of guilt in a civil suit for treble damages.

Eleven percent of major American corporations involved in corrupt practices is a pretty startling figure. It would hardly be as startling, of course, if it referred to businesses of modest size, for which data are lacking. The bribing of purchasing agents by small manufacturers and the skimming of receipts by cash-laden small retail businesses are a commonplace of commercial life.

Our compilation of cases covered a substantial slice of time, to be sure, and management changed in many of these large companies during the period; after a major scandal, the culprits were often sacked and the board of directors took sweeping measures to avoid a recurrence. On the other hand, it is axiomatic that there was more crime than was exposed in public proceedings.

A number of companies have been repeat offenders. Ashland Oil, for example, pleaded guilty to making a $100,000 illegal political contribution. It was also convicted, after a nolo plea, of fixing the price of resins. This year its construction subsidiary pleaded guilty in three cases of rigging bids for highway construction work in Virginia.

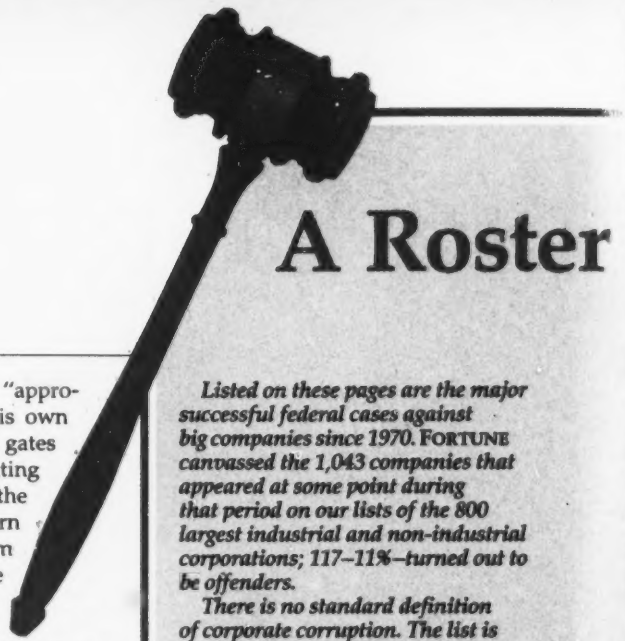
Gulf Oil has four entries on the list—two for illegal political contributions, one for bribing an IRS agent, one for fixing the price of uranium. International Paper was convicted three times, after nolo pleas, in major antitrust cases—involving paper labels, folding cartons, and corrugated containers. Eastex Packaging Inc., a subsidiary of Time Inc., the publisher of FORTUNE, was one of 22 other companies convicted in the folding-carton case.

Briefcases full of cash

In the Bethlehem Steel case, the company pleaded guilty to criminal activity over five years, 1972-76, but the government contended that the kickbacks had been going on for a much longer time. The purpose of the scheme was to bribe representatives of ship lines to steer repair work to Bethlehem's seven shipyards or to speed up payment of bills.

Since 1961, according to the indictment, Bethlehem had been using a Swiss company called Office pour le Financement du Commerce et de l'Industrie to launder the kickback money. OFCI was a convenient conduit, for it had a worldwide network of agents who drummed up ship-repair business.

continued



A Roster

Listed on these pages are the major successful federal cases against big companies since 1970. FORTUNE canvassed the 1,043 companies that appeared at some point during that period on our lists of the 800 largest industrial and non-industrial corporations; 117–11%–turned out to be offenders.

There is no standard definition of corporate corruption. The list is limited to five offenses about whose impropriety there is little argument–bribery (including kickbacks and illegal rebates), criminal fraud, illegal political contributions, tax evasion, and criminal antitrust violations–all undertaken for the benefit of the corporation rather than for personal profit. Not included are crimes directed against the corporation, such as embezzlement. The list excludes bribery, kickbacks, and "questionable" payments made abroad. (The one exception is United Brands' $1.2-million bribe to a Honduran official, because many of the events surrounding it occurred in the U.S.) All the cases resulted either in conviction on criminal charges or in consent decrees (or similar administrative settlements), in which the companies neither affirm nor deny past transgressions but agree not to commit them in the future. Fifty executives from 15 companies went to jail in various of these cases. Fines were levied on most of the convicted companies but aren't listed unless they came to $500,000 or more.

Minor cases of corruption far down the chain of command have been excluded. The standard throughout was corporate responsibility at a high level.

In the lists that follow, the dates refer to the year that the indictments or complaints were filed.

Clifford R. Wise, head of Bethlehem's ship-repair sales office in New York, would send payments to OFCI that ostensibly represented sales commissions but actually were levies fraudulently added to customers' bills. After the money was entered into OFCI's books (OFCI taking a cut for its cooperation), it was available for recycling back to the U.S. Typically, Wise or his secretary would fly to Switzerland, stuff a briefcase with cash, and return to New York. Over five years, according to the indictment, a million dollars was funneled into the U.S. and two South American countries; on just one day in August 1975, Wise flew $115,000 in cash over to New York. The government traced some $400,000 to kickbacks. What happened to the rest of the money is not altogether clear. Bethlehem is seeking the return of funds it claims Wise embezzled; he denies the charges.

In several celebrated cases, illegal corporate political contributions have also been part of an elaborate pattern of deception that went on for many years. For more than a decade, for example, Gulf Oil used a subsidiary in Nassau to launder funds sent from the U.S., ostensibly to be used to prospect for oil. At least $4.5 million returned to these shores to be distributed as political handouts.

Firestone Tire & Rubber Co., according to the findings of its audit committee, was in the business of doling out illegal political contributions from at least 1960 through 1973. But Firestone's audit committee discovered that the volume of funds "appropriated" for political purposes, as it put it, increased substantially after 1968, when Robert P. Beasley became chief financial officer and overseer of the political slush fund. In 1972, for example, Beasley got Raymond C. Firestone, then the chief executive, to initial a treasury voucher authorizing the transfer of $107,777 in Firestone funds to an outside bank account controlled by Beasley. Top officers of the corporation would make personal political contributions, all apparently quite legal, and be reimbursed in cash by Beasley.

Beasley was simultaneously "appropriating" Firestone funds for his own use—an indication of the sluice gates that are opened once accounting controls are relaxed. In the end, the U.S. Attorney for the Southern District of New York charged him with embezzling $1 million; he pleaded guilty to charges involving nearly half that sum and received a four-year sentence. Firestone was convicted on tax charges relating to $12.6 million in corporate income that Beasley had put in special reserve accounts and failed to report at the proper time.

From one point of view—say that of a librettist for a corporate version of *Guys and Dolls*—these shenanigans are pretty comic. A moralist, or even an amateur dabbler in corporate sociology, would find them hair-raising. What indeed is going on here? Why do some of the largest, most prestigious corporations in America get involved in complex scenarios of illegality that rival the paranoid fantasies of their bitterest critics?

No single answer accounts for the variety of corporate misbehavior. One generalization often invoked plays on the distinction between *malum in se*—a crime in itself, like the immemorial offenses of the common law—and *malum prohibitum*—purely statutory crimes that vary with the society. As a celebrated corporate defense counsel recently put it, "These business crimes are perceived by individual actors as victimless. We all grew up in an environment in which we learned that thou shalt not murder, rape, rob, probably not pay off a public official—but not that it was a crime to fix prices."

Most of the economic crimes that fill the lists on the following pages do not bring the social obloquy that attaches to robbery or embezzlement. One chief executive recently boasted to FORTUNE about how he had once rid his company of some executives who had run afoul of the antitrust laws. "That sent the message to the organization," he said. Ten minutes later,

Text continued on page 62

# of Wrongdoing

COMPANY	OFFENSE
Allied Chemical	**1974** – Fixing prices of dyes. Pleaded nolo contendere. **1979** – Tax fraud related to paying kickbacks. Nolo plea on some charges.
Amerada Hess	**1976** – Fixing prices of gasoline. Convicted after trial. Executive acquitted. Conviction being appealed.
American Airlines	**1973** – Illegal campaign contributions of $55,000. Guilty plea. **1975** – CAB charges related to slush fund used for contributions. Settlement. **1977** – SEC charges related to same. Consent decree.
American Bakeries	**1972** – Fixing prices of bread. Nolo plea.
Amer. Beef Packers	**1975** – Company and president charged with defrauding a creditor. Both found guilty on some counts. **1976** – SEC charges related to same matter. Injunction against president.
American Brands	**1978** – James B. Beam subsidiary and two executives charged with bribery of state liquor official. All pleaded guilty.
American Can	**1976** – Company and executive charged with fixing prices of folding cartons. Nolo pleas by both.
American Cyanamid	**1974** – Fixing prices of dyes. Nolo plea.
American Export Ind.	**1979** – American Export Lines subsidiary[1] charged with fixing prices of ocean shipping. Nolo plea.
Anheuser-Busch	**1977** – SEC charges concerning $2.7 million in payments to customers. Consent decree. **1978** – Treasury Dept. charges about same matter. Settlement and $750,000 fine.
Archer-Daniels-Midland	**1976** –Defrauding grain buyers by short-weighting. Nolo plea.
Arden-Mayfair	**1971** – Company and executive charged with fixing prices of dairy products. Nolo pleas. **1977** – SEC charges related to $4.4 million in rebates and off-book accounts. Consent decree. **1978** – Price fixing of dairy products. Nolo plea.
Armco	**1973-77** – Three cases of fixing prices of steel reinforcing bars. Nolo pleas by company and three executives.
Ashland Oil	**1973** – Illegal political contribution of $100,000. Guilty plea. **1975** – SEC charges about allegedly illegal payments. Consent decree. **1977** – Fixing prices of resins used to make paint. Nolo plea. **1980** – Ashland–Warren subsidiary pleaded guilty in three cases involving bid rigging in highway construction. Fined a total of $1.5 million.
Associated Milk Prod.	**1974** – Illegal political contributions. Guilty plea.
Beatrice Foods	**1974** – Fixing prices of toilet seats. Company and president of Beneke division pleaded nolo. **1978** – SEC charges about improper accounting for $11.7 million in rebates. Consent decree.
Bethlehem Steel	**1973-74** –Two cases of fixing prices of steel reinforcing bars. Company and one employee pleaded nolo; another convicted after trial. **1980** – Mail fraud related to bribes paid for ship-repair business. Guilty plea.
Boise Cascade	**1978** – Fixing prices of corrugated containers. Nolo pleas by company and two plant managers.
Borden	**1974 & 1977** – Two cases of fixing prices of dairy products. Company and three executives pleaded nolo.
Borg-Warner	**1971** – Fixing prices of plastic pipe fittings. Nolo plea.

COMPANY	OFFENSE
Braniff International	**1973** – Illegal political contribution of $40,000. Guilty pleas by company and chairman. **1975** – CAB allegations about contribution. Settlement. **1976** – SEC charges related to $900,000 slush fund and contributions. Consent decree. **1977** – Criminal restraint of trade. Nolo plea.
CPC International	**1977** – Fixing prices of industrial sugar. Nolo plea.
Carnation	**1971** – Fixing prices of dairy products. Company and executive pleaded nolo. **1973** – Illegal political contributions of $9,000. Company and chairman pleaded guilty. **1974** – Fixing prices of dairy products. Nolo pleas by company and general manager.
Carter Hawley Hale	**1974** – Bergdorf Goodman subsidiary charged with fixing prices of women's clothing. Company and executive pleaded nolo.
Ceco	**1973-77** – Three cases involving fixing prices of steel reinforcing bars. Company and one executive pleaded nolo; another executive convicted after trial.
Celanese	**1971** – Fixing prices of plastic pipe fittings. Company pleaded nolo; executive acquitted.
Cenco	**1976** – SEC charges related to falsifying inventory. Seven of eight former executives signed consent decrees. **1979** – Seven executives indicted on criminal charges of mail fraud related to the same scheme. Three pleaded guilty, three convicted after trial, and one acquitted of fraud charges. Convictions are being appealed.
Champion Intl.	**1974** – Bid rigging in purchase of timber from public lands. Company found guilty after trial. Executive acquitted. **1976** – Fixing prices of folding cartons. Nolo plea.
Chemical New York	**1977** – Chemical Bank charged with violations of Bank Secrecy Act in scheme by two branch officials to launder money for alleged narcotics dealer. Officials pleaded guilty to tax charges and company to reduced charges.
Chicago Milwaukee	**1976** – SEC allegations of improper use of assets and political contributions. Consent decree.
Combustion Engin.	**1973** – Fixing prices of chromite sand. Company and executive pleaded nolo.
Consolidated Foods	**1974** – Fixing prices of refined sugar. Nolo plea.
Continental Group	**1976** – Fixing prices of paper bags. Company and one executive convicted after trial; two others acquitted. Company fined $750,000.
Cook Industries	**1976** – Defrauding grain customers by short-weighting. Company pleaded nolo and five executives pleaded guilty.
Dean Foods	**1977** – Price fixing of dairy products. Nolo pleas by company and executive.
Diamond International	**1974** – Illegal campaign contributions of $6,000. Company and executive pleaded guilty. **1974** – Fixing prices of paper labels. Nolo pleas by company and two executives. **1976** – Fixing prices of folding cartons. Company and seven executives pleaded nolo.
Diversified Industries	**1976** – SEC charges related to alleged short-weighting of customers in metal-recovery processes. Consent decree.
Du Pont	**1974** – Fixing prices of dyes. Nolo plea.

[1]Acquired by Farrell Lines in 1978.

A Roster of Wrongdoing

COMPANY	OFFENSE
Equity Funding	**1973** – SEC charges relating to $2 billion in fictitious insurance policies. Consent decree. **1973** – Former chairman and 21 other former executives charged with fraud. All pleaded guilty to some counts.
FMC	**1976** – Fixing prices of persulfates. Company and executive pleaded nolo.
Federal Paper Board	**1976** – Fixing prices of folding cartons. Company and two executives pleaded nolo.
Federated Dept. Stores	**1976** – I. Magnin subsidiary charged with fixing prices of women's clothing. Nolo plea.
Fibreboard[2]	**1976** – Fixing prices of folding cartons. Company and executive pleaded nolo.
Firestone	**1976** – SEC charges about slush fund and allegedly illegal political contributions of $330,000. Consent decree. **1979** – False tax-return charges related to $13 million in set-aside income. Guilty plea on some counts.
Flavorland Industries	**1979** – Fixing prices of meat. Nolo plea.
Flintkote	**1973** – Fixing prices of gypsum board. Company, chairman, and president pleaded nolo.
Franklin New York	**1974** – SEC charges against nine executives relating to the bankruptcy of Franklin National Bank. Company and eight executives signed consent decree. **1975** – Eight former executives and employees of bank charged with fraud. All pleaded guilty. **1978** – Three other former executives charged with fraud. All convicted after trial.
Fruehauf	**1975** – Company, chairman, and vice president charged with criminal tax evasion. All convicted after trial.
GAF	**1974** – Fixing prices of dyes. Nolo plea.
GTE	**1977** – SEC charges relating to political contributions and payments to local officials. Consent decree.
General Dynamics	**1977** – SEC allegations of improper accounting to disguise political contributions. Consent decree.
General Host	**1972** – Fixing prices of bread. Nolo plea.
General Tire & Rubber	**1976** – SEC charges concerning slush fund and allegedly illegal political contributions. Consent decree.
Genesco	**1974** – Fixing prices of women's clothing. Nolo plea.
Gimbel Bros.[3]	**1974 & 1976** – Saks & Co. subsidiary charged with two cases of fixing prices of women's clothing. Company and executive pleaded nolo.
B.F. Goodrich	**1978** – Tax evasion related to slush fund used for illegal political contributions. Nolo plea by company; charges against an executive dropped.
Goodyear	**1973** – Illegal political contribution of $40,000. Company and chairman pleaded guilty. **1977** – SEC charges concerning slush fund of $500,000 for contributions. Consent decree.
Great Western United[4]	**1974** – Great Western Sugar subsidiary charged with fixing prices of refined sugar. Nolo plea.
Greyhound	**1974** – Illegal campaign contributions of $16,000. Guilty plea.
Gulf Oil	**1973** – Illegal political contributions of $100,000. Company and executive pleaded guilty. **1975** – SEC charges about $10-million slush fund used for political contributions. Consent decree. **1977** – Company and two employees charged with giving illegal gifts to an IRS agent. Company pleaded guilty, one employee pleaded nolo, the other convicted after trial. **1978** – Fixing prices of uranium. Pleaded guilty.
Gulf & Western	**1976** – Brown Co. subsidiary charged with fixing prices of folding cartons. Company and two executives pleaded nolo.
Hammermill Paper	**1978** – Palmer Paper Co. unit charged with fixing prices of paper products. Company and executive pleaded nolo.
Heublein	**1978** – Bribery of state liquor official. Guilty plea.
Hoerner Waldorf[5]	**1976** – Fixing prices of folding cartons. Company and four executives pleaded nolo. **1978** – Fixing prices of corrugated containers. Nolo plea.
ITT	**1972** – ITT Continental Baking subsidiary charged with fixing prices of bread. Nolo plea.
Inland Container[6]	**1978** – Fixing prices of corrugated containers. Nolo plea by company and executive.
International Paper	**1974** – Fixing prices of paper labels. Company and two executives pleaded nolo. **1976** – Fixing prices of folding cartons. Company and four executives pleaded nolo. **1978** – Fixing prices of corrugated containers. Nolo plea. Fined $617,000.
Walter Kidde	**1977** – SEC charges against U.S. Lines subsidiary[7] related to $2.5 million in allegedly illegal rebates. Consent decree. **1978** – Federal Maritime Commission charges related to same. Settlement. **1979** – U.S. Lines charged with fixing prices of ocean shipping. Nolo plea. Fined $1 million.
Koppers	**1979** – Bid rigging in connection with sale of road tar to State of Connecticut. Nolo plea.
LTV	**1978** – Agriculture Dept. charges against Wilson Foods subsidiary related to alleged illegal payoffs to customers. Settlement.
Liggett Group	**1978** – Paddington Corp. subsidiary charged with bribery of state liquor official. Guilty plea.
Litton Industries	**1974** – Fixing prices of paper labels. Convicted after trial.
3M	**1973** – Illegal campaign contribution of $30,000. Company and chairman pleaded guilty. **1975** – SEC charges related to $634,000 slush fund for contributions. Consent decree.
Marcor[8]	**1976** – Container Corp. subsidiary charged with fixing prices of folding cartons. Company and eight executives pleaded nolo. **1978** – Subsidiary charged with fixing prices of corrugated boxes. Company and two executives pleaded nolo.
Martin Marietta	**1978** – Martin Marietta Aluminum subsidiary charged with fixing prices of titanium products. Company and executive pleaded nolo.
Mattel	**1974** – SEC charges related to false disclosures to influence stock prices. Consent decree. **1978** – Former president indicted on criminal charges related to same matter. Nolo plea.
J. Ray McDermott	**1976** – SEC charges related to slush fund of more than $800,000 used for commercial bribes and illegal political contributions. Consent decree. **1978** – Wire fraud and racketeering charges relating to the bribes and contributions. Guilty plea. **1978** – Bid rigging and allocation of contracts relating to pipeline and offshore-oil-rig construction. Company, president, and three other executives pleaded nolo. Company fined $1 million.
Mead	**1976** – Fixing prices of folding cartons. Company and executive pleaded nolo.

[2] Acquired by Louisiana-Pacific in 1978.
[3] Acquired by BAT Industries in 1973.
[4] Merged into Hunt Intl. Resources in 1978.
[5] Merged into Champion Intl. in 1977.
[6] Acquired by Time Inc. later in 1978.
[7] Acquired by McLean Securities in 1978.
[8] Acquired by Mobil in 1978.

COMPANY	OFFENSE
National Distillers	**1978** – Bribery of state liquor official. Pleaded guilty. **1980** – Treasury Dept. allegations of illegal payments to customers. Settlement and $750,000 fine.
Northern Natural Gas	**1972** – Mail fraud related to bribery of local officials to obtain right-of-way permits for pipeline construction. Company and one executive pleaded nolo to some counts; charges against another executive dropped.
Northrop	**1974** – Illegal campaign contributions of $150,000. Company and two executives pleaded guilty. **1975** – SEC charges related to slush fund for $500,000 in domestic contributions. Consent decree.
Occidental Petroleum	**1974** – Illegal campaign contribution of $54,000. Executive and later the chairman pleaded guilty. **1977** – SEC charges related to $200,000 slush fund for contributions in the U.S. and abroad. Consent decree.
Olinkraft[9]	**1978** – Fixing prices of corrugated containers. Company and one executive pleaded nolo; another executive acquitted.
Owens-Illinois	**1978** – Fixing prices of corrugated containers. Company and one executive pleaded nolo; two others acquitted.
Pan American	**1975** – Illegal fare cutting. Nolo plea. **1977** – Fixing prices of military fares. Nolo plea.
Peavey	**1977** – Defrauding grain customers by short-weighting. Nolo plea.
Penn Central	**1974** – SEC charges of fraud relating to the bankruptcy of the railroad. Consent decree.
PepsiCo	**1970** – Frito-Lay subsidiary charged with fixing prices of snack food. Nolo plea. **1977** – Parent company charged with fixing prices of industrial sugar. Nolo plea. **1979** – Parent company and two executives of Monsieur Henri subsidiary charged with bribing a union official. All pleaded guilty.
Pet[10]	**1970** – Fixing prices of snack foods. Nolo plea.
Phillips Petroleum	**1973** – Illegal campaign contribution of $100,000. Company and chairman pleaded guilty. **1975** – SEC charges related to $2.8-million slush fund, a portion of which was allegedly used for domestic illegal political contributions. Consent decree. **1975** – Fixing prices of gasoline. Nolo plea. **1976** – Tax evasion related to the slush fund. Guilty plea.
Pittston	**1977** – Brink's Inc. subsidiary charged with bid rigging and fixing prices of security services. Company and five executives pleaded nolo. Company fined $625,000.
H.K. Porter	**1974** – Fixing prices of steel reinforcing bars. Nolo plea.
Potlatch	**1976** – Fixing prices of folding cartons. Company and one executive pleaded nolo; another executive acquitted.
Purolator	**1978** – Bid rigging and allocation of markets for security services. Nolo plea.
Rapid-American	**1978** – Schenley subsidiary and three executives charged with bribery of a state liquor official. All pleaded guilty. **1979** – SEC charges against Schenley related to $6 million in allegedly illegal payments to customers. Consent decree.
Reichhold Chemicals	**1977** – Fixing prices of resins used to make paints. Company and executive pleaded nolo.
R.J. Reynolds Ind.	**1977** – Federal Maritime Commission charges against Sea-Land Services subsidiary relating to illegal payments to customers. Settlement and $4-million fine. **1978** – SEC suit against Sea-Land related to $25 million in allegedly illegal rebates and political contributions. Consent decree. **1979** – Fixing prices of ocean shipping. Nolo plea. Fined $1 million.
Rockwell International	**1978** – Fixing prices of gas meters. Pleaded guilty.
St. Regis Paper	**1976** – Fixing prices of folding cartons. Company and executive pleaded nolo.
F.&M. Schaefer	**1978** – Treasury Dept. allegations of $600,000 in illegal rebates to customers. Settlement.
Jos. Schlitz Brewing	**1977** – SEC charges related to $3 million in illegal rebates to customers. Consent decree. **1977** – Fixing prices of beer. Company and executive pleaded nolo. **1978** – Treasury Dept. allegations of illegal marketing practices and rebates. Consent decree and $750,000 fine.
Joseph E. Seagram	**1977** – SEC charges related to over $1 million in allegedly illegal rebates to customers and political contributions. Consent decree. **1978** – Seagram Distillers, three other subsidiaries, and four executives charged with bribery of a state liquor official. All pleaded guilty. **1979** – Illegal payments to members of a state liquor-control board. Guilty plea. Fined $1.5 million.
Seatrain Lines	**1978** – Payment of illegal rebates and violation of currency regulations. Guilty plea in criminal case and $2.5-million fine paid in Federal Maritime Commission case. **1979** – Fixing prices of ocean shipping. Nolo plea. **1980** – SEC suit related to $14 million in rebates to customers. Consent decree.
Singer	**1975** – Illegal campaign contribution of $10,000. Guilty plea.
SuCrest[11]	**1977** – Fixing prices of industrial sugar. Nolo plea.
Tenneco	**1976** – Packaging Corp. subsidiary charged with fixing prices of folding cartons. Company and four executives pleaded nolo. **1978** – Mail fraud in connection with bribery of a local official. Guilty plea.
Textron	**1978** – Fixing prices of gas meters. Pleaded guilty.
Time Inc.[12]	**1976** – Eastex Packaging subsidiary charged with fixing prices of folding cartons. Nolo plea.
Trans World Corp.	**1975** – TWA charged with illegal fare cutting. Nolo plea. **1977** – Fixing prices of military fares. Nolo plea.
Uniroyal	**1977** – SEC charges related to allegedly illegal political contributions. Consent decree.
United Brands	**1975** – SEC charges related to improper use of funds to pay a $1.2-million bribe to a Honduran official. Consent decree. **1978** – Wire fraud charges related to the same matter. Guilty plea.
U.S. Steel	**1973** – Fixing prices of steel reinforcing bars. Company and an executive pleaded nolo.
Jim Walter	**1978** – Knight Paper subsidiary charged with fixing prices of paper products. Company and executive pleaded nolo.
Ward Foods	**1972** – Fixing prices of bread. Nolo plea. **1978** – Fixing prices of meat. Nolo plea.
Weyerhaeuser	**1976** – Fixing prices of folding cartons. Company and three executives pleaded nolo. **1978** – Fixing prices of corrugated boxes. Company pleaded nolo, fined $632,000. Two executives acquitted.
Wheelabrator-Frye	**1976** – A. L. Garber subsidiary[13] charged with fixing prices of folding cartons. Nolo plea.
Zale	**1977** – SEC charges related to slush fund to reimburse executives for political contributions. Consent decree.

[9] Acquired by Johns-Manville in 1979.
[10] Merged into IC Industries in 1978.
[11] Now named Ingredient Technology.
[12] Publisher of FORTUNE.
[13] Now an independent company.

"Where people are not lining their own pockets you can only explain corporate crime in terms of 'produce or perish.'"

however, he expressed dismay about how his statements would look in print. After all, some years had passed; the men were still living in the community; they had made their peace with the company. Would the same solicitude be accorded a bank robber?

The "bottom-line philosophy"

Corrupt practices are certainly not endemic to business, but they do seem endemic to certain situations and certain industries. A persuasive explanation for many violations is economic pressure—the "bottom-line philosophy," as Stanley Sporkin, the SEC's enforcement chief, puts it. "In many instances where people are not lining their own pockets you can only explain corporate crime in terms of 'produce or perish.'"

The common practice of running a company through decentralized profit centers, giving each manager his head but holding him strictly accountable for the results, often provides a setting in which the rules can readily be bent. The temptation comes when heightened competition or a recession squeezes margins.

The pressures that led to criminal behavior in the folding-carton industry were exhaustively described in a 1978 article in the *Harvard Business Review* by Jeffrey Sonnenfeld and Paul L. Lawrence. Price fixing had long been common in the industry because profit margins were tight, competition was intense, and prices were set at a relatively low level in the corporate hierarchy—a consequence of the many kinds and shapes of boxes ordered. Top management had little control over the impulses of salesmen and junior managers to exchange price information, rig bids, and divvy up customers.

The authors quote the self-exculpatory statement of one executive: "We're not vicious enemies in this industry, but rather people in similar binds. I've always thought of myself as an honorable citizen. We didn't do these things for our own behalf ... [but] for the betterment of the company."

In a similar vein, Irving S. Shapiro, Du Pont's chief executive, attributes antitrust violations to "weak companies" and "weak managements." For years, Shapiro had served as an antitrust lawyer at Du Pont, preaching the gospel of legal compliance to the managers down the line. But he had not long been installed as c.e.o. when the Justice Department, in 1974, hit the company with an indictment charging an antitrust conspiracy by Du Pont's dye group and several competitors.

The scheme began in 1970. Wanting to raise prices, Du Pont's dye people called on the competition and won agreement to a "follow the leader" scheme. The following January, Du Pont announced a 10% price increase; the competition followed suit in February and March. When brought to book, the nine companies involved all pleaded nolo and were fined between $35,000 and $50,000 each. Shapiro says he then laid down the law—he would countenance no further violations. Was the dye group a "weak"—that is, hard-pressed—division? Indeed yes, said Shapiro; he got rid of most of it last year at a loss of $64 million. (For a report on a more promising line of business at Du Pont, see page 92).

Rush to the courthouse

Once the Justice Department starts looking into a suspicious pricing pattern, it often has no difficulty making a case. Most price fixers are anything but hardened criminals. It is also true that antitrust enforcement in the U.S. is in general tougher than abroad. By convening a grand jury and sending out subpoenas Justice can touch off what one official calls "a rush to the courthouse" by executives eager to trade testimony for immunity.

Competitive pressures can account for kickbacks and other forms of commercial bribery, but perhaps equally significant are industry custom and structure. In trucking, in construction, and on the docks, the pressure of time seems to be the key element. If goods are delayed in transit, or if construction is held up because of the inability to obtain materials or workers, great financial loss can result. Where bribes are not freely offered, they are often extorted.

Companies in regulated industries sometimes violate the law because of the simple fact of regulation. In the beer and liquor industries, for example, both the federal government and the states prohibit or curtail some normal techniques of salesmanship, such as discounts and rebates. The result: illegal rebates and gifts of merchandise to persuade liquor retailers to promote a company's products.

A thumb on the scales

The great grain-elevator scandal of the mid-Seventies clearly resulted from conditions that were pervasive in the industry in the New Orleans area. Thirteen grain-trading companies, together with several score employees, were convicted of shortchanging customers. Continental Grain, for one, was fined $500,000 on 50 counts of filing false export statements. Employees at Continental's elevator at Westwego, Louisiana, had set their scales to register one-twentieth of 1% more than the true weight. The company's lame excuse was that the employees thought they were within their rights because the law required scales to be accurate only within a tolerance of one-tenth of 1%. True enough, but not when they were systematically rigged to shortchange customers.

Simple economic incentives explain much illegal behavior: corruption seems to pay, at least in the near term. In industries like folding cartons or corrugated boxes, where antitrust cases were brought, executives perceived an advantage in maintaining price levels, sharing the market, and keeping marginal firms alive. In such a situation, of course, the customers pay and the whole economy suffers from a measure of inefficiency. When a corporation is caught, the shamefaced executives take a drastically different view of the cost-benefit ratio. Some companies might have been better off in the long run if they had followed the alternative, and legal, strategy of expanding their market share by driving their weaker brethren to the wall.

continued

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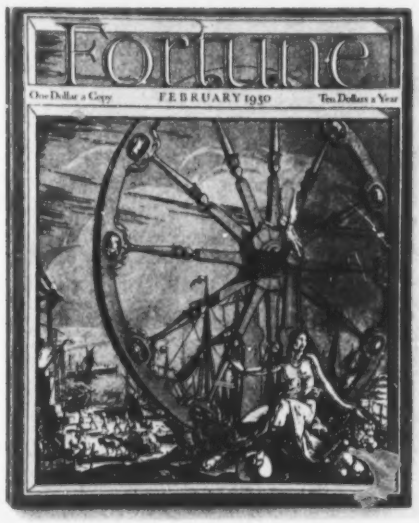

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Some have mounted vigorous compliance programs.

Except in cases hinging on illegal political contributions—once a way of life in many corporations and rarely investigated or prosecuted prior to Watergate—the chief executive is seldom personally implicated. Typically, even the executives running the guilty subsidiary or division disavow any knowledge of the wrongdoing below. Such was the situation at Bethlehem Steel, which in its public statement of contrition was careful to assert that top management—including the head of the shipbuilding division—had been ignorant of the kickback scheme.

Conspiracy of silence

Particularly when violations are persistent, however, it is hard to escape the cynical conclusion that if the line managers are ignorant, it is often because of an unspoken conspiracy of silence: the boss doesn't pry too vigorously, and his underlings get the impression that he would regard it as a betrayal if they volunteered too much.

A question that FORTUNE's compilation inevitably leaves unanswered is whether corporate corruption was on the increase in the last decade. More wrongdoing was exposed because of the crackdown in the aftermath of Watergate. But there are no data to allow comparisons over time about the extent of corporate lawlessness.

The publicity accorded the business scandals of the Seventies has given some impetus to reform. If the chief executive of a multibillion-dollar corporation cannot police every corner of his organization, he can establish an appropriate policing program and do much to set the right tone. A number of companies, including some sued for treble damages, have mounted vigorous compliance programs to instruct employees about the dangers of getting too chummy with competitors. But hard-pressed managers will probably still be weighing the risks of detection against the benefits of sharing markets and bribing purchasing agents. It sometimes seems that the only true believers in unfettered competition are professors of economics and business journalists. ■

Europe's U.S. Shopping Spree

Success in retailing requires close touch with the local scene, tastes, and buying habits, which is one reason retailers have traditionally stayed on their native soil. Except for some of the fast-food franchisers, American merchants, unlike American industrialists, never really set up shop in Europe. Although America led the world to the supermarket, the U.S. pioneers of self-service shopping generally left it to foreigners to introduce the idea elsewhere. Even within Europe, cases of successful border-hopping by retailers are fairly rare.

Lately, however, Europeans have been descending in droves on the U.S. retailing landscape, buying up everything from high-fashion chains to low-margin discounters—right through the alphabet from A&P to F.A.O. Schwarz. Strictly speaking, it all started in 1962 when members of the Brenninkmeyer family—a wealthy Dutch retailing clan with low-priced clothing stores blanketing northern Europe—bought Ohrbachs, the New York apparel store. After that, there was a ten-year lull, broken in the early Seventies by the acquisition of Gimbel Brothers, owners of Saks Fifth Avenue as well as Macy's rival, by British-American Tobacco Co. (now called BAT Industries). Since then, the pace of takeovers has quickened and retailers all over the country have fallen into European hands (see the table on page 85). Over 10% of the U.S. grocery business is now owned by Europeans, including two of the top ten supermarket chains, A&P and Grand Union.

Though virtually unknown on the western shore of the Atlantic, the newcomers include some of the biggest guns in European retailing. A&P's owner, Tengelmann Group, is a supermarket king in West Germany. Hugo Mann, who now owns most of Fedmart, is founder of a chain of huge discount stores in Germany selling food and other merchandise (see the box on page 88). The Netherlands' two largest retail chains—Vroom & Dreesmann and Ahold—have bought, respectively, department stores in Little Rock and food stores in South Carolina. Delhaize in Belgium, Agache-Willot in France, and Cavenham in Britain—household words on their home turf—are among the other big European invaders.

Some of the new arrivals are newcomers to retailing as well. BAT, Britain's fourth-largest company, moved into retailing on

Research associate: Lisa Miller Mesdag

The companies buying up American retail chains haven't always fared well, but they keep coming.

by ROBERT BALL

both sides of the Atlantic to reduce its dependence on cigarette sales. Franz Haniel, a Ruhr-based shipping company and wholesaler of coal and fuel oil, had no retailing interests at home when it bought Scrivner, a grocery-store chain headquartered in Oklahoma City. Nor did Heinrich Bauer Verlag, one of Germany's major magazine publishers, which bought a variety-store chain called Winn's, based in San Antonio.

The results achieved by these motley combinations have been mixed, ranging from quiet prosperity through more or less successful turnarounds to at least one out-and-out horror story. In general, the main contribution of the European companies to their new American subsidiaries has been financial—the injection of capital. It follows that the best results have occurred where money was the main thing lacking—in other words, where the U.S. companies were profitable and had good management but needed cash to expand.

A Wood that could

The rule is that American management works best. There is, however, one outstanding exception in James Wood. He was brought over from Cavenham, the British supermarket group, to run Grand Union. The East Coast grocery chain was not a sparkling performer when Sir James Goldsmith made it Cavenham's beachhead in the U.S. in 1973. Wood's prescription sounded like a nostrum—ax unprofitable stores, change the merchandise mix, tighten financial reporting—but it proved a sovereign remedy. Grand Union's profits rose tenfold in the six years he was in charge, and the company has bought two more supermarket chains, Colonial Stores and J. Weingarten, positioning Cavenham along the whole coastal arc from New England to the Mexican border. Today Cavenham's U.S. sales are twice as big as its sales at home.

Wood was recently lured away to A&P by the German group that now controls the old tea company. Erivan Haub, 48, sole owner of Tengelmann, hopes Wood can still work magic (see "A&P Calls in a Reliever," FORTUNE, June 2). Haub vacations with his family every year in Tacoma, and having trained in the Fifties with Jewel and a California grocery chain called Alpha-Beta, he knew the U.S. retailing scene better than many Europeans. But while he now has well over $100 million riding on A&P's fate, Haub admits

A Mixed Bag of Two Dozen Takeovers

Whether they know it or not, shoppers from California to the Carolinas are buying from Europeans these days. This list, compiled from public reports of major investments in U.S. retailers by Europeans, shows that six of the domestic companies they bought into, including A&P (No. 1), are losing money. But Cavenham has done well with Grand Union (No. 2) and the Belgian company that invested $27 million in Food Town (No. 11) now holds stock with a market value of about $100 million.

its problems were more serious than he realized when he bought in.

All the surprises for the Delhaize Group, on the other hand, have been good ones. A family-dominated concern that runs the Le Lion chain of grocery stores in Belgium, Delhaize now owns the lion's share of a remarkable supermarket operation headquartered in Salisbury, North Carolina. Delhaize has invested $27 million in Food Town Stores but hasn't meddled with the way tarheel founder Ralph Ketner runs the business. When the Belgians met Ketner in 1974, Food Town's sales were $93 million. Since then Ketner has moved into South Carolina and Virginia, and sales are running at more than $500 million. Though virtually unknown outside the three-state area, Food Town has been a bonanza for its shareholders, including Delhaize, which now owns 52% of the company. Based on recent stock prices, in fact, Food Town's market value is 27% greater than that of A&P—$190 million vs. $150 million.

A plethora of pianos

The Europeans have had fewer successes in non-food retailing. Like Tengelmann, BAT underestimated an ailing company's problems when it bought Gimbel Brothers, but it has stuck with American managers. Before the 1973 takeover, profits from Saks were covering losses at Gimbels, which had been allowed to sink into lethargy. ("They had a whole floor full of pianos, as I recall," says BAT Chairman Peter Macadam, wonderingly.) Only now, after seven years of hard slog and the injection of large sums for modernization, is Gimbels beginning to turn the corner. BAT's chairman admits it "still has problems." Saks, on the other hand, has continued to do very well.

Changes in management and uncertainty about which slice of the market it was aiming at have characterized Ohrbachs under the ownership of the Brenninkmeyers. When the family took it over, Ohrbachs had a certain cachet as a fashion-conscious retailer selling quick copies of the latest Paris styles. In 18 years of sailing under the Brenninkmeyer flag, it has lost that cachet without acquiring any new identity. Over the last decade it has had three different managers—two Americans and now a member of the Brenninkmeyer family—and today is probably only marginally profitable. But indifferent success with Ohrbachs has not discouraged the Brenninkmeyers from seeking new outlets in the U.S. A 1977 attempt to take over Miller-Wohl, an East Coast apparel chain, fell through, but two years ago Brenninkmeyer made a successful bid for Maurices, a Minnesota-based clothing chain.

The worst European debacle has been Korvettes. Less than two years after buying in, Agache-Willot is preparing to close or sell the last 30 survivors of what was once a thriving 50-store operation. The French company, controlled and run by four Willot brothers, went on a spree in the Seventies, acquiring such Paris retailing landmarks as the Au Bon Marché department store and the Christian Dior fashion and perfume business. But nothing prepared the Willots for Korvettes.

They thought they were getting a bargain when they bought the company for $31 million. Korvettes' parent, Arlen Realty, was in trouble and needed the cash, and Korvettes was losing money too. A Frenchman, Alain Mathieu, was sent to New York to stanch the flow of red ink. When he failed in that mission, he was replaced by Joseph Ris, former vice president of Chrysler International. Young Jean-Pierre Willot Jr., whose American experience was limited to studies at Cornell, was put at Ris's elbow.

As late as this June, Ris was still exhorting employees to help him pull the company through. But despite drastic surgery, Korvettes' debts to suppliers were nearly $30 million, and those to lending institutions had reached $55 million. In August, when a debt-restructuring plan Ris worked out with the lenders was disavowed by his French employers, he resigned, but was quickly reinstated after the banks retaliated by seizing Korvettes' deposits. Subsequently, Ris has turned Korvettes' inventory over to a liquidator, which will use the proceeds from the rummage sale to pay some of the chain's bills. The other $55 million in debt is to be settled by the Willots at less than 50 cents on the dollar.

Lesson for Mothercare

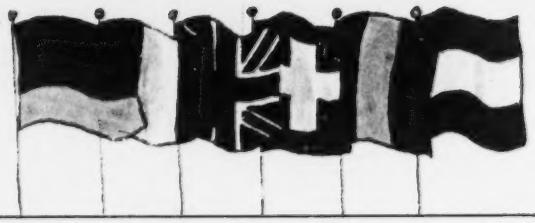
As the Korvettes experience suggests, the Europeans' advance staff work has often been surprisingly lax. And some of the U.S. investment bankers and merger brokers who offered their services proved better at ferreting out acquisition candidates than at giving sound advice. Sir James Goldsmith of Cavenham, one European who has prospered, credits "an element of luck." Though he spent several months in the U.S. and had the help of the late great André Meyer of Lazard Frères, Goldsmith confesses that he was still "relatively ignorant" about American retailing when he bought Grand Union.

This plaint is echoed by other European investors who were less lucky than Sir James. "Because we knew the cigarette business," says Chairman Macadam of BAT, "we thought we knew all about selling consumer goods in vast quantities. We discovered retailing is very different." An executive of Mothercare Ltd., the successful British maternity and children's wear group whose U.S. operation has been losing money, admits, "We got the merchandise wrong. We simply assumed that goods which sold well in Europe would also sell in the States. That turned out not to be true."

Despite their growing presence, the Europeans haven't "Europeanized" U.S. retailing, and major innovations that bear their stamp are hard to name. That is not altogether surprising since trends in retailing are similar on either side of the Atlantic. In both parts of the world, the self-service sector is expanding at the expense of stores with salesclerks, and the range of goods offered in self-service outlets is constantly growing. The Europeans, however, did lead the development of "box stores"—grocery outlets that typically carry only a few hundred basic

continued

- Grocery Stores
- Department Stores
- Discount Stores
- Clothing Stores
- Variety Stores
- Toy Stores



	U.S. retailer			European acquirer			Details of acquisition		
	Headquarters	Annual sales[1] (millions)	Profitable?	Country	Annual sales[1] (millions)	Main business	Initial investment made	Total investment (millions)	Percent owned
1	**A&P** Montvale, N.J.	$6,684	No	**Tengelmann Group** Germany	$3,576		1979	$115	48%
2	**Grand Union** Elmwood Park, N.J.	$3,138	Yes				1973	$130	100%
3	**Colonial Stores** Elmwood Park, N.J.	Now a division of Grand Union		**Cavenham** Great Britain	$5,062		1978	$139	100%
4	**J. Weingarten** Houston	$567	Yes				1980	$27	100%
5	**Gimbel Brothers** New York City	$1,190	Yes	**BAT Industries** Great Britain	$15,845	Tobacco	1973	$200	100%
6	**Kohl** Milwaukee	$400	Yes				1972	$90	100%
7	**Fedmart** San Diego	$1,061	No	**Mann GmbH** Germany	$2,076		1975	$90	88%
8	**BI-LO** Mauldin, S.C.	$547	Yes	**Ahold NV** Netherlands	$2,761		1977	$60	100%
9	**Scrivner** Oklahoma City	$547	Yes	**Franz Haniel** Germany	$2,076	Fuel & shipping	1977	$27	100%
10	**Alterman Foods** Atlanta	$495	Yes	**Delhaize "Le Lion"** Belgium	$1,537		1980	$36	100%
11	**Food Town Stores** Salisbury, N.C.	$416	Yes				1974	$27	52%
12	**Furr's** Lubbock, Tex.	$450*	No	**RHG-Leibbrand** Germany	$2,768		1979	$24	100%
13	**Korvettes** New York City	$400*	No	**Agache-Willot** France	$3,175	Textiles	1979	$67	100%
14	**Dillard Dept. Stores** Little Rock	$391	Yes	**Vroom & Dreesmann** Netherlands	$3,386		1978	$35	52%
15	**Red Food Stores** Chattanooga, Tenn.	$265*	Yes	**Promodes** France	$2,240		1980	$36	100%
16	**Ohrbachs** New York City	N.A.	Yes				1962	N.A.	100%
17	**Maurices** Duluth, Minn.	N.A.	Yes	**Brenninkmeyer family** Netherlands	$5,190*		1978	N.A.	100%
18	**Hub Distributing** Ontario, Calif.	N.A.	Yes				1980	N.A.	100%
19	**Winn's Stores** San Antonio	$70	Yes	**Heinrich Bauer Verlag** Germany	$779	Magazine publishing	1979	$50	100%
20	**Macks Stores** Sanford, N.C.	$62	Yes	**Koninklijke Bijenkorf Beheer** Netherlands	$1,302		1980	$15	100%
21	**Ups 'n Downs** Secaucus, N.J.	$58	No	**Tootal** Great Britain	$858	Textiles	1979	$19	100%
22	**Lil' Champ Food Stores** Jacksonville	$31	Yes	**Docks de France** France	$2,683		1978	$3	35%
23	**Dekon** New York City	$28	No	**Mothercare** Great Britain	$352		1976	$1	100%
24	**F.A.O. Schwarz** New York City	$15	Yes	**Franz Carl Weber** Switzerland	$125		1974	$3	95%

N.A. Not available. *FORTUNE estimate. [1]Latest fiscal year. Foreign currencies have been converted to dollars using the average exchange rate in the official market during the fiscal year.

Fedmart Is an Armful for Hugo Mann

Ever since he was a boy growing up in southern Germany, Hugo Mann, 67, has been fascinated by the wide-open spaces of America. As a P.O.W. in Russia, he learned English from a fellow prisoner, scratching the words onto pieces of birch bark. By 1957, seven years after he reopened the family furniture store on a bombed-out site in Karlsruhe, Mann had saved enough money to tour his promised land. He returned convinced that he had seen the future, that it was self-service retailing, and that it worked.

It certainly worked for Mann. His Wertkauf chain, inspired by his observations in the U.S., has grown into a billion-dollar-a-year business in Germany. The stores, huge "hypermarkets" that sell both groceries and a broad line of other items, are also hugely efficient. Thanks to the marvels of electronic inventory controls, Mann operates without a single warehouse or truck. Store managers order merchandise as needed, and suppliers deliver it right to the door, price-marked and ready for the shelves. Mann reckons this system saves him 4% to 5% on costs.

In the early Seventies, Mann's interest in U.S. retailing, refreshed by annual visits, ripened into a decision to invest. After looking long and hard, he settled in 1975 on San Diego-based Fedmart. Like Mann's German operations, Fedmart sold both food and other merchandise, a rare combination in the U.S. Mann also liked Fedmart's Sunbelt location. After tough negotiations, he paid $27 million for 64% of the stock. "We knew it was run-down," he says, "but we thought it was not too big to get our arms around." Sales were running about $300 million.

Mann at his San Diego store this fall

Mann had seen many but not all of Fedmart's 30-odd stores before he made his bid; he soon discovered why no one had put the others on his itinerary. Too many small Fedmarts were strewn too thinly across the Southwest. Outlets in Dallas and Houston were being supplied from warehouses on the Pacific Coast. Mann reasoned that to be economically sound, Fedmart would need more and bigger stores. That meant spending more money.

Having decided buying was cheaper than building, in 1978 Mann purchased the West Coast operations of Vornado—22 Two Guys discount stores—and began converting them to Fedmarts. (The Two Guys stores on the East Coast still belong to Vornado.) He also bought ten Globe Stores in the Southwest from Walgreen. And both times he inspected all the stores before he closed the deal. Mann's determination to make a go of Fedmart was stiffened by strict new building restrictions in Germany affecting construction of giant supermarkets. "I concluded that if we couldn't build anything more in Germany, we would have to turn to the U.S.," he says.

Mann has by now invested some $90 million in Fedmart, and in the process has acquired 88% of the stock. He can afford the outlay. He is sole owner of the German company, and while its profits have never been disclosed, FORTUNE estimates them at over $25 million a year.

Yet the Fedmart experience has required nerves as strong as Mann's bank balance. The company lost $11 million in fiscal 1979 when the integration costs of the Two Guys and Globe stores hit the accounts, and it has just reported a $6.3-million loss for the year ending August 31. Although Fedmart's sales have just topped $1 billion, the stock has dropped from $19 to around $9 in the last 20 months.

Mann is nonetheless forecasting a profit in fiscal 1981, and his zest for American adventure is undiminished despite the grim results to date. "I'd do it again tomorrow," he insists. And, with a glance over his shoulder at what he sees as a climate of "cold confiscation" in Europe, he adds, "America is the land of enterprise. If the time ever comes when I can't go on in Germany, I'll just buy a ticket to the U.S."

items, displayed in the boxes they are shipped in, and little or no fresh produce. Such shops account for only 2% of U.S. food sales at present. But Tengelmann is banking heavily on them as part of its recovery plan for A&P. It has already opened 63 under the name Plus, and plans to open at least 30 more before next spring.

Cure for claustrophobia

Given that the U.S. has proved less than an El Dorado—few even of the successful Europeans are yet taking out any dividends—why the continuing rush across the Atlantic? The chief factor is simply a sort of corporate claustrophobia: the bigger European retail chains are bumping up against the limits on profitable growth at home. The U.S., despite tough competition and margins generally lower than those in Europe, has compelling attractions. Aside from a larger market, these include less union pressure, fewer government-imposed fringe benefits, access to the latest advances in inventory and checkout systems, and a climate they view as favorable to business and investment. Europeans also prize the real estate that comes with ownership of a retail chain.

For the many family-controlled retailing companies, there is the additional lure of acquiring assets at a safe distance from the Russians and out of reach of "creeping socialism." Even though his acquisition of Colonial Stores is still being raked over by the FTC, Sir James Goldsmith says with the fervor of a born-again entrepreneur, "We believe in America." Gui de Vaucleroy, a director of Delhaize, the Belgian company that struck pay dirt in North Carolina, asserts: "The U.S. is the last bastion of capitalism."

These sentiments may not exactly warm the hearts of U.S. retailers, whose business has been competitive enough without the infusion of new capital. Soon other European companies, like Sir James's, will be selling more in the U.S. than at home. Many of those already here are looking for more acquisitions; others plan an explosive expansion. Mothercare Ltd., for example, wants to have 1,000 outlets in the U.S. in 15 years, up from less than 200 today. BAT talks of hundreds of its new women's sportswear stores called Thimbles. And there are still many well-heeled companies in the wings awaiting their cue. Watch for Continental touches at your friendly neighborhood store. F